

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

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Anthony Mitchell,

Case No. 2:24-cv-01042-RFB-DJA

Plaintiff,

## Order

V.

Ryan Cohen, et al.,

## Defendants.

This is a federal securities action arising out of *pro se* Plaintiff's purchase of 8847 shares of Bed Bath & Beyond stock from trading platform, Robinhood and those shares' loss of value during the "meme stock" movement. Plaintiff sues various defendants, including Ryan Cohen, the chairman of the board of GameStop Corp. and RC Ventures, LLC. Plaintiff moves a second time for alternative service on Cohen and RC Ventures. (ECF No. 29). Because the Court finds that Plaintiff has not provided enough information to demonstrate diligence in attempting to serve these Defendants or to demonstrate that Plaintiff's proposed methods of alternative service comport with due process, the Court denies Plaintiff's motion without prejudice.

## I. Legal standard.

The Constitution does not require any particular means of service of process. *Rio Props., Inc. v. Rio Intern. Interlink*, 284 F.3d 1007, 1017 (9th Cir. 2002) (citing *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950)). It requires only that service “be reasonably calculated to provide notice and an opportunity to respond.” *Id.* Service of process is governed by Rule 4 of the Federal Rules of Civil Procedure.

A federal court lacks jurisdiction over a defendant unless the defendant has been properly served under Rule 4. *Direct Mail Specialists, Inc. v. Eclat Computerized Techs., Inc.*, 840 F.2d 685, 688 (9th Cir. 1988) (citation omitted). Rule 4, however, “is a flexible rule that should be liberally construed so long as a party receives sufficient notice of the complaint.” *Id.* “[W]ithout

1 substantial compliance with Rule 4,” “neither actual notice nor simply naming the defendant in  
2 the complaint will provide personal jurisdiction.” *Id.* Federal Rule of Civil Procedure 4(e)(1)  
3 provides that an individual within a judicial district of the United States may be served by  
4 “following state law for serving a summons in an action brought in courts of general jurisdiction  
5 in the state where the district court is located or where service is made.” Federal Rule of Civil  
6 Procedure 4(h) provides that a corporation, partnership, or association located in a judicial district  
7 of the United States may be served in the manner prescribed by Rule 4(e)(1) for serving an  
8 individual or by delivering a copy of the summons and of the complaint to an officer, a managing  
9 or general agent, or any other agent authorized by law to receive service of process.

10       ***A. Alternative service in Nevada.***

11       Under Nevada Rule of Civil Procedure 4.4(b)(1), a plaintiff may serve a party through  
12 alternative means if the methods of service provided for in Rules 4.2 (service within Nevada), 4.3  
13 (service outside Nevada), and 4.4(a) (statutory service) are impracticable. Under Nevada Rule of  
14 Civil Procedure 4.4(b)(2), a motion seeking an order for alternative service must provide  
15 affidavits, declarations or other evidence demonstrating:

16       (i) the due diligence that the plaintiff undertook to locate and serve the  
17 defendant; and  
18       (ii) the defendant’s known, or last known contact information including  
19 address, phone numbers, email addresses, social media accounts, or  
other information used to communicate with the defendant...

20       The motion must also outline the proposed alternative service method and explain why it  
21 comports with due process. Nev. R. Civ. P. 4.4(b)(2)(B). Under Nevada Rule of Civil Procedure  
22 4.4(b)(3), if the Court orders alternative service, the plaintiff must also make reasonable efforts to  
23 provide additional notice under Rule 4.4(d) and mail a copy of the summons and complaint as  
24 well as any order authorizing the alternative service to the defendant’s last-known address.  
25 Nevada Rule of Civil Procedure 4.4(d) provides that, in addition to any other service method, the  
26 court may order a plaintiff to make reasonable efforts to provide additional notice of the  
27 commencement of the action by other methods like certified mail, telephone, voice message,  
28 email, social media, “or any other method of communication.”

1        **II. Discussion.**

2            The Court denied Plaintiff's initial motion for alternative service on Cohen and RC  
3 Ventures because Plaintiff had not demonstrated that he attempted proper service under either  
4 Nevada law (where this district court is located) or New York law (where he attempted service)  
5 on either Cohen or RC Ventures before moving for alternative service. (ECF No. 16).  
6 Specifically, Plaintiff had not demonstrated that he had attempted personal service on Cohen and  
7 had not demonstrated that he had attempted service on RC Ventures' registered agent, members,  
8 managers, or authorized agent. (*Id.* at 6-8). The Court also noted that, while Plaintiff asserted  
9 that he had attempted service on Cohen and RC Ventures' attorneys, the process servers'  
10 explanations about why they could not effect service at the attorneys' office was confusing. (*Id.*  
11 at 8).

12            In his renewed motion, Plaintiff still fails to explain whether he was diligent in attempting  
13 proper service. Plaintiff does not provide information about any attempts—other than the ones he  
14 made in his initial motion—that he has made to serve Cohen or RC Ventures. And although  
15 Plaintiff explains that he has been unable to find alternative service addresses for Cohen and RC  
16 Ventures, he does not provide sufficient information about his attempts to find this information.  
17 While Plaintiff does explain that he was able to find a P.O. Box address for both Defendants and  
18 learned that Cohen was represented by a Washington, D.C. law firm in another case, Plaintiff  
19 does not otherwise explain whether he has attempted to contact Defendants through the P.O. Box  
20 or these attorneys. Plaintiff also still fails to provide information about whether he attempted to  
21 find and serve RC Ventures' registered agent, members, managers, or any other agent authorized  
22 to accept service.

23            Plaintiff also does not provide any other information that might inform the Court about  
24 whether Plaintiff's proposed alternative service would comport with due process. Plaintiff does  
25 not provide any email addresses or phone numbers for Cohen's Washington, D.C. attorneys and  
26 provides no email addresses or phone numbers for the New York attorneys on whom he initially  
27 attempted service. Plaintiff does not explain whether he was able to find any email addresses or  
28 phone numbers for either Cohen or RC Ventures themselves.

1 Without this information, the Court cannot find that Plaintiff was diligent in attempting to  
2 serve Cohen or RC Ventures and cannot determine whether Plaintiff's proposed method of  
3 alternative service will comport with due process. The Court recognizes that Plaintiff is pro se  
4 and appreciates his efforts to detail the searches he has conducted for other addresses for these  
5 Defendants. The Court also recognizes the difficulty that Plaintiff may face, particularly as a pro  
6 se litigant, in obtaining an address suitable for personal service on Cohen. However, the Court  
7 requires more detail from Plaintiff about the efforts he took to find proper service addresses for  
8 these Defendants, the efforts he took to contact or serve these Defendants, and whether any other  
9 methods of communication with these Defendants might exist (for example, phone numbers,  
10 email addresses, social media accounts, or other information used to communicate with these  
11 Defendants).

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13 **IT IS THEREFORE ORDERED** that Plaintiff's renewed motion for substitute service  
14 (ECF No. 29) is **denied without prejudice**.

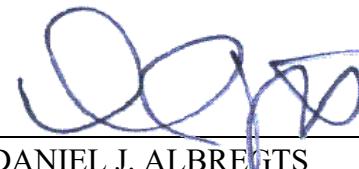
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DATED: November 14, 2024

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DANIEL J. ALBREGTS  
UNITED STATES MAGISTRATE JUDGE

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